

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THE ANNUITY, WELFARE AND
APPRENTICESHIP SKILL
IMPROVEMENT & SAFETY FUNDS
OF THE INTERNATIONAL UNION
OF OPERATING ENGINEERS,
LOCAL 15, 15A, 15C & 15D,
AFL-CIO, by their trustees, JAMES T.
CALLAHAN, THOMAS A.
CALLAHAN, and JOHN BRUNETTI,

MEMORANDUM AND ORDER

No. 15-CV-2675-FB-JO

Plaintiffs,

-against-

IRON, INC.,

Defendant.

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BLOCK, Senior District Judge:

On February 17, 2016, Magistrate Judge Orenstein issued a Report and Recommendation (“R&R”) recommending that plaintiffs’ motion for a default judgment be granted and that judgment be entered in favor of plaintiffs and against defendant in the total amount of \$4,622.71. The R&R advised that “[a]ny objections . . . must be filed no later than March 7, 2016,” and that “[f]ailure to file objections within this period designating the particular issues to be reviewed waives the right to appeal the district court’s order.” R&R at 10-11.

The R&R was mailed to the defendant's address of record the same day it was issued. To date, no objections have been filed.

Where clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court, however, will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. However, Magistrate Judge Orenstein calculated prejudgment interest through March 8, 2016. Under the same methodology, prejudgment interest continues to accrue from that date at a rate of 38 cents per day.

Therefore, the Clerk shall enter judgment in accordance with the R&R, plus an additional 38 cents per day for the number of days between March 8 and the entry of judgment. The judgment shall also provide for post-judgment interest.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 15, 2016